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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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IM22/0119

EXAMINER

HON, S

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 01/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	<b>Application No.</b> 09/228,103	<b>Applicant(s)</b> GOPAL, HARSH	
	<b>Examiner</b> Sow-Fun Hon	<b>Art Unit</b> 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- |   |  |
|---|--|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____        |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) _____ |
| 17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 20) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

***Response to Amendment***

***Withdrawn Rejections***

1. The 35 U.S.C 102(b) rejection in Paper # 6, paragraph 3 (mailed 06/21/00) of claim 1 over Bridgeford or Chiu, has been withdrawn due to Applicant's clarification in Paper # 8 (filed 10/25/00).
2. The 35 U.S.C 103(a) rejection in Paper # 6, paragraph 6 (mailed 06/21/00) of claims 2-15 over Bridgeford or Chiu, has been withdrawn due to Applicant's clarification in Paper # 8 (filed 10/25/00).

***Rejections Maintained***

3. The 35 U.S.C 102(b) rejection in Paper # 6, paragraph 3 (mailed 06/21/00) of claim 1 over Rose, has been maintained. See paragraph 11 below.
4. The 35 U.S.C 103(a) rejection in Paper # 6, paragraph 5 (mailed 06/21/00) of claims 2-4, 9, 11, 13, 15 over Rose, has been maintained. See paragraph 11 below.

***New Rejections***

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1-4, 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bridgeford (US Patent 4,062,981) in view of Colliopoulos et al. (US Patent 3,966,632).

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Bridgeford has a method for humidifying sausage casings wherein a moisture-providing fluid is contacted with the inside wall of the casing. The preferred surfactant having lubricating qualities is sorbitan trioleate which is a relatively viscous oily liquid and dispersible in water and preferably combined in water in proportions of 0.8 –1.5 %, so that the surfactant on the wall after humidification is typically from 0.015-0.15 mg/in<sup>2</sup> ( 232 mg/m<sup>2</sup>) (column 3, lines 26-35). The sausage casing materials are taught to be cellulose (column 2, lines 21-25). Bridgeford discloses that prior art teach the use of coating solutions with 0.2-2% by weight of other vegetable fats (oils) in a 12 % glycerin-water solution (column 1, lines 60-64). (Glycerin is also known as glycerol).

Colliopoulos et al. have a vegetable oil emulsion containing 1-4 % of an emulsifying agent (surfactant) which is a particular mixed polyglycerol ester useful in preparing edible food products (abstract). The vegetable oil can be soybean or cottonseed oil (column 1, lines 1-5). Colliopoulos et al. teach that the esters are a mixture of di-, tri- and tetra polyglycerols, such as triglycerol mono-oleate as well as sorbitan mono-oleate and decaglycerol tetra-oleate, which are emulsifying agents (better suited for preparing stable emulsions of vegetable oil particularly soybean oil containing more than 10 % water) (column 1, lines 44-68).

Therefore it would have been obvious to one of ordinary skill in the art to have used the triglycerol esters taught by Colliopoulos et al. in the place of the preferred sorbitan trioleate surfactant in the invention of Bridgeford to obtain a food casing with an internal surface coating comprising a surfactant comprising a mixture of triglycerol esters which contain triglycerol mono-oleate.

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7. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bridgeford (US Patent 4,137,957) in view of Colliopoulos et al. Colliopoulos et al. have been discussed above.

Bridgeford have internal coatings for cellulose food casings which impart meat release characteristics and strand strength (column 1, lines 5-10). The coating composition contains from about 0.5 to about 2.5 % by weight of a water-soluble cellulose ether such as hydroxypropyl cellulose, methylcellulose and hydroxypropyl methyl cellulose (column 2, lines 15-20). The second essential component is a partial fatty acid such as sorbitan trioleate in a proportion of from about 0.25 to about 5 % by weight (column 2, lines 52-68). The third essential component is a water-soluble polyalkylene glycol (polyhydric alcohol) which is taught by Bridgeford to be soluble from 10 to 40 % by weight in water (suggesting the use of the solubility range to meet the desired physical properties) (column 3, lines 7-23).

It would have been obvious to one of ordinary skill in the art to have used the triglycerol esters taught by Colliopoulos et al. in the place of the preferred sorbitan trioleate surfactant in the invention of Bridgeford to obtain a food casing with an internal surface coating comprising a surfactant comprising a mixture of triglycerol esters which contain triglycerol mono-oleate.

#### ***Allowable Subject Matter***

8. New claims 16,18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. New claims 17, 19-20 are allowed. The prior art does not teach or suggest a food casing comprising an internal surface coating of a dried aqueous emulsion comprising from about 1 to about 5 weight percent polyglyceryl ester wherein the polyglyceryl ester comprises two different triglyceryl esters present in a ratio of about 4 to 1.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's arguments in Paper # 8 (filed 10/25/00) regarding the 35 U.S.C 102(b) rejection in Paper # 6, paragraph 3 (mailed 06/21/00) of claim 1 over Rose have been fully considered but deemed unpersuasive. Even though product by process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985). In the instant case, it is unclear how the dried coating of Rose is different from the one claimed by Applicant.

12. In addition, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the differences in the dried coating) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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13. Applicant's arguments in Paper # 8 (filed 10/25/00) regarding the 35 U.S.C 103(a) rejection in Paper # 6, paragraph 5 (mailed 06/21/00) of claims 2-4, 9, 11, 13, 15 over Rose have been fully considered but deemed unpersuasive for the same reasons as in paragraph 11 above.

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (703)308-3265. The examiner can normally be reached Monday to Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary examiner, Rena Dye, can be reached on (703)308-4331. The fax phone number for the organization where this application or proceeding is assigned is (703)305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

SA  
01/11/01

  
RENA L. DYE  
PRIMARY EXAMINER  
*Tech Center 1700*